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(Original Signature of Member)

109TH CONGRESS
2D SESSION

H. R. _____

To reauthorize the Magnuson-Stevens Fishery Conservation and Management
Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. POMBO (for himself, Mr. FRANK of Massachusetts, and Mr. YOUNG of
Alaska) introduced the following bill; which was referred to the Com-
mittee on _____

A BILL

To reauthorize the Magnuson-Stevens Fishery Conservation
and Management Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE: AMENDMENT REFERENCES.**

4 (a) SHORT TITLE.—The Act may be cited as the
5 “American Fisheries Management and Marine Life En-
6 hancement Act” .



1 (b) AMENDMENT OF MAGNUSON-STEVEN'S FISHERY
2 CONSERVATION AND MANAGEMENT ACT.—Except as oth-
3 erwise expressly provided, whenever in this Act an amend-
4 ment or repeal is expressed as an amendment to, or repeal
5 of, a section or other provision, the reference shall be con-
6 sidered to be made to a section or other provision of the
7 Magnuson-Stevens Fishery Conservation and Manage-
8 ment Act (16 U.S.C. 1801 et seq).

9 **SEC. 2. TECHNICAL CORRECTIONS TO DEFINITIONS.**

10 (a) EXECUTION OF PRIOR AMENDMENTS.—

11 (1) CONTINENTAL SHELF FISHERY RE-
12 SOURCES.—Section 102(2) of the Sustainable Fish-
13 eries Act (Public Law 104–297; 110 Stat. 3561) is
14 amended—

15 (A) by striking “COELENTERATA” and
16 inserting “**COELENTERATA**”;

17 (B) by striking “CNIDARIA” and insert-
18 ing “**CNIDARIA**”; and

19 (C) by striking “CRUSTACEA” and in-
20 serting “**CRUSTACEA**”.

21 (2) UNITED STATES HARVESTED FISH.—Sec-
22 tion 102(11) of the Sustainable Fisheries Act (Pub-
23 lic Law 104–297; 110 Stat. 3563) is amended by
24 striking “(42)” and inserting “(43)”.



1 (3) EFFECTIVE DATE.—This subsection shall
2 take effect on the effective date of section 102 of
3 Public Law 104–297.

4 (b) CORRECTIONS RELATING TO SPECIAL AREAS.—
5 Section 3 (16 U.S.C. 1802) is amended—

6 (1) by striking paragraphs (35) and (36);

7 (2) by redesignating paragraphs (37) through
8 the last paragraph (relating to the definition of “wa-
9 ters of a foreign nation”) in order as paragraphs
10 (35) through (44);

11 (3) by inserting “(a) GENERAL DEFINITIONS.—
12 ” before “As used in this Act”; and

13 (4) by adding at the end the following:

14 “(b) TERMS RELATING TO AGREEMENT WITH THE
15 FORMER SOVIET UNION.—As used in this Act the term
16 ‘special areas’ means the areas referred to as eastern spe-
17 cial areas in Article 3(1) of the Agreement between the
18 United States of America and the Union of Soviet Social-
19 ist Republics on the Maritime Boundary, signed June 1,
20 1990. In particular, the term refers to those areas east
21 of the maritime boundary, as defined in that Agreement,
22 that lie within 200 nautical miles of the baselines from
23 which the breadth of the territorial sea of Russia is meas-
24 ured but beyond 200 nautical miles of the baselines from



1 which the breadth of the territorial sea of the United
2 States is measured.”.

3 **SEC. 3. SCIENCE-BASED IMPROVEMENTS TO MANAGEMENT.**

4 (a) HARVEST LEVEL CAPS.—

5 (1) MECHANISM.—Section 303(a) (16 U.S.C.
6 1853(a)) is amended by striking “and” after the
7 semicolon at the end of paragraph (13), by striking
8 the period at the end of paragraph (14) and insert-
9 ing a semicolon, and by adding at the end the fol-
10 lowing:

11 “(15) provide a mechanism for specifying the
12 total allowable catch or another annual catch limit
13 under the plan (including for a multiyear plan) for
14 each fishery for which an annual catch limit can be
15 established, that—

16 “(A) is based on the best scientific infor-
17 mation available; and

18 “(B) in the case of a plan issued by a
19 Council, does not exceed the acceptable biologi-
20 cal catch level recommended by the scientific
21 and statistical committee of the Council;”.

22 (2) REQUIREMENT TO ADOPT.—Section 302(h)
23 (16 U.S.C. 1852(h)) is amended by striking “and”
24 after the semicolon at the end of paragraph (5), by
25 striking the period at the end of paragraph (6) and



1 inserting a semicolon, and by adding at the end the
2 following:

3 “(7) adopt a total allowable catch limit or other
4 annual harvest effort control limit for each of the
5 fisheries for which such a limit can be established,
6 after considering the recommendation of the sci-
7 entific and statistical committee of the Council hav-
8 ing jurisdiction over the fishery, which shall not ex-
9 ceed the recommendation for the acceptable biologi-
10 cal catch as recommended by such scientific and sta-
11 tistical committee; and”.

12 (3) CONFORMING AMENDMENT.—Section
13 304(b)(11) (16 U.S.C. 1853(b)(11)) is amended by
14 striking “allowable biological catch” and inserting
15 “acceptable biological catch”.

16 (b) BEST SCIENTIFIC INFORMATION AVAILABLE.—
17 Section 303 (16 U.S.C. 1853) is amended by adding at
18 the end the following:

19 “(d) BEST SCIENTIFIC INFORMATION AVAILABLE.—
20 The Secretary shall develop guidelines for the Councils to
21 use in determining what is the best scientific information
22 available. The Secretary shall base these guidelines on the
23 recommendations for guidelines developed by the Ocean
24 Studies Board of the National Research Council in its re-



1 port titled ‘Improving the Use of the Best Scientific Infor-
2 mation Available, Standard in Fisheries Management’.”.

3 (c) SCIENTIFIC AND STATISTICAL COMMITTEES.—

4 Amend section 302(g)(1) (16 U.S.C. 1852(g)(1)) is
5 amended by inserting “(A)” before “Each Council”, and
6 by adding at the end the following:

7 “(B) Each scientific and statistical com-
8 mittee shall provide its Council ongoing sci-
9 entific advice for fishery management decisions,
10 including recommendations for acceptable bio-
11 logical catch for each fishery under the jurisdic-
12 tion of the Council, and reports on stock status
13 and health, bycatch, habitat status, socio-eco-
14 nomic impacts of management measures, and
15 sustainability of fishing practices.

16 “(C) Members appointed to the scientific
17 and statistical committees shall be Federal em-
18 ployees, State employees, academicians, or inde-
19 pendent experts with strong scientific or tech-
20 nical credentials and experience.

21 “(D) In addition to payments authorized
22 by subsection (f)(7), the Secretary may pay a
23 stipend to members of the scientific and statis-
24 tical committees who are not employed by the



1 Federal Government or a State government
2 agency.

3 “(E) A science and statistical committee
4 shall hold its meetings in conjunction with with
5 the meetings of the Council, to the extent prac-
6 ticable.”.

7 (d) SCIENTIFIC RESEARCH PRIORITIES.—Section
8 302(h) (16 U.S.C. 1852(h)) is further amended amended
9 by adding at the end the following:

10 “(8) develop, in conjunction with the scientific
11 and statistical committee, multi-year research prior-
12 ities for fisheries, fisheries interactions, habitats,
13 and other areas of research that are necessary for
14 management purposes, that shall—

15 “(A) establish priorities for 5-year periods;

16 “(B) be updated as necessary; and

17 “(C) be submitted to the Secretary and the
18 regional science centers of the National Marine
19 Fisheries Service for their consideration in de-
20 veloping research priorities and budgets for the
21 region of the Council.”.

22 (e) COOPERATIVE RESEARCH AUTHORITY.—

23 (1) DISCRETIONARY PROVISIONS IN FISHERY
24 MANAGEMENT PLANS.—Section 303(b) (16 U.S.C.
25 1853(b)) is amended by striking “and” after the



1 semicolon at the end of paragraph (11), by striking
2 the period at the end of paragraph (12) and insert-
3 ing a semicolon, and by adding at the end the fol-
4 lowing:

5 “(13) include provisions to create a cooperative
6 research component including the use of commercial
7 fishing, charter fishing, or recreational fishing ves-
8 sels for the gathering of data on stock abundance,
9 composition, distribution, or other relevant informa-
10 tion important for the implementation of the plan;”.

11 (2) COOPERATIVE RESEARCH BY SECRETARY.—
12 Section 404 (16 U.S.C. 1881c) is amended by add-
13 ing at the end the following:

14 “(e) COOPERATIVE RESEARCH BY SECRETARY.—The
15 research program under subsection (a) may include coop-
16 erative research using commercial fishing, charter fishing,
17 or recreational fishing vessels for the gathering of data
18 on stock abundance, composition, distribution, or other
19 relevant information.”.

20 (3) PRESERVING FISHING PRIVILEGES.—Sec-
21 tion 404 (16 U.S.C. 1881c) is further amended by
22 adding at the end the following:

23 “(f) PRESERVING FISHING PRIVILEGES.—The Sec-
24 retary shall ensure that—



1 “(1) fishing vessels participating in research ac-
2 tivities conducted pursuant to section 303(b)(13) or
3 title IV do not lose allocated fishing privileges (such
4 as days at sea) based on the research activities, un-
5 less loss of such privileges is a part of the research
6 plan under which the vessel participates; and

7 “(2) catch history of a vessel during such re-
8 search activities at any time when the vessel is sacri-
9 ficing fishing time in an open season shall accrue to
10 the vessel, unless loss of such accrual is part of such
11 research plan.”.

12 (f) REGIONAL STOCK ASSESSMENTS.—

13 (1) IN GENERAL.—Title IV (16 U.S.C. 1881 et
14 seq.) is amended by adding at the end the following:

15 **“SEC. 408. REGIONAL STOCK ASSESSMENTS.**

16 “(a) IN GENERAL.—The Secretary shall conduct
17 periodic regional assessments of stocks of fish.

18 “(b) INDEPENDENT REVIEW.—The Secretary shall
19 ensure that each periodic assessment under this section
20 is independently reviewed in a manner that—

21 “(1) will not delay the process of providing to
22 Regional Fishery Management Councils current as-
23 sessments for use in managing fisheries; and



1 “(2) is as transparent as possible, so that the
2 regulated community can provide input during the
3 review process.”.

4 (2) CLERICAL AMENDMENT.—The table of con-
5 tents in the first section is further amended by add-
6 ing at the end of the items relating to title IV the
7 following:

“Sec. 408. Regional stock assessments.”.

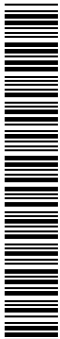
8 (3) REGIONAL STOCK ASSESSMENTS AND PEER
9 REVIEW.—Section 302(g) (16 U.S.C. 1852(g)) is
10 amended by adding at the end the following:

11 “(6) PEER REVIEW PROCESS.—

12 “(A) The Secretary and each Council shall
13 establish a peer review process for scientific in-
14 formation used to advise the Secretary or the
15 Council, respectively, about the conservation
16 and management of fisheries.

17 “(B) The Secretary and each Council shall
18 ensure that the peer review process established
19 under this paragraph—

20 “(i) to the extent practicable, will not
21 delay the process of providing to the Coun-
22 cil or the Secretary, respectively, current
23 information for use in managing fisheries;
24 and



1 “(ii) is as transparent as possible, so
2 that the regulated community can provide
3 input during the review process.”.

4 **SEC. 4. DATA COLLECTION.**

5 (a) **AUTHORITY TO REQUIRE VMS.**—Section 305 (16
6 U.S.C. 1855) is amended by adding at the end the fol-
7 lowing:

8 “(j) **AUTHORITY TO REQUIRE VMS.**—The Secretary
9 may require, if requested to do so by a Council, a Vessel
10 Monitoring System or other similar electronic monitoring
11 technology for a fishery or specific sectors of a fishery
12 under the jurisdiction of the Council. To the extent that
13 the technology is required for enforcement or data collec-
14 tion purposes for a dedicated access privilege management
15 system, the cost of such a system shall be included in the
16 costs that are considered in determining the amount of
17 any fee required under this Act to be paid to participate
18 in the fishery. Any information collected under this sub-
19 section shall be treated as confidential and exempt from
20 disclosure under section 402(b).”.

21 (b) **SHARING OF RECREATIONAL CATCH DATA.**—
22 Section 402 (16 U.S.C. 1881a) is amended by adding at
23 the end the following:

24 “(f) **RECREATIONAL CATCH DATA.**—

25 “(1) The Secretary shall—



1 “(A) seek to obtain from States informa-
2 tion gathered under State recreational fishing
3 license programs;

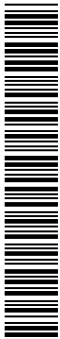
4 “(B) work with those States that do not
5 require a recreational saltwater fishing license
6 to determine whether other recreational data
7 sources can provide adequate information about
8 recreational fishing; and

9 “(C) develop and implement a program for
10 the use of recreational catch data for all feder-
11 ally managed fisheries.

12 “(2) The Secretary shall conduct the program
13 under paragraph (1)(C) in consultation with the
14 principal State officials having marine fishery man-
15 agement responsibility and expertise.

16 “(3) The Secretary may provide financial as-
17 sistance to States for which no recreational saltwater
18 license is in place to develop such a license. There
19 is authorized to be appropriated to the Secretary to
20 provide such assistance \$5,000,000, which shall re-
21 main available until expended.

22 “(4) The Secretary shall report to the Congress
23 within three years after the effective date of this
24 subsection, on—



1 “(A) the progress made in developing a
2 program under paragraph (1)(C); and

3 “(B) whether the program has resulted in
4 significantly better data for management of rec-
5 reational fishing.”.

6 (c) CONFIDENTIALITY OF INFORMATION.—

7 (1) IN GENERAL.—Section 402(b) (16 U.S.C.
8 1881a(b)) is amended—

9 (A) by redesignating paragraph (2) as
10 paragraph (4) and resetting it 2 ems from the
11 left margin;

12 (B) by striking all preceding paragraph
13 (4), as so redesignated, and inserting the fol-
14 lowing:

15 “(b) CONFIDENTIALITY OF INFORMATION.—

16 “(1) Any information submitted to the Sec-
17 retary, a State fishery management agency, or a
18 Marine Fisheries Commission by any person in com-
19 pliance with the requirements of this Act, including
20 confidential information, shall be exempt from dis-
21 closure under section 552(b)(3) of title 5, United
22 States Code, except—

23 “(A) to Federal employees and Council em-
24 ployees who are responsible for fishery manage-



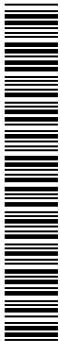
1 ment plan development, monitoring, or enforce-
2 ment;

3 “(B) to State or Marine Fisheries Commis-
4 sion employees as necessary for achievement of
5 the purposes of this Act, subject to a confiden-
6 tiality agreement between the State or commis-
7 sion, as appropriate, and the Secretary that
8 prohibits public disclosure of confidential infor-
9 mation relating to any person;

10 “(C) to any State employee who is respon-
11 sible for fishery management plan enforcement,
12 if the State employing that employee has en-
13 tered into a fishery enforcement agreement with
14 the Secretary and the agreement is in effect;

15 “(D) if such information is used by State,
16 Council, or Marine Fisheries Commission em-
17 ployees to verify catch under a limited access
18 program, but only to the extent that such use
19 is consistent with subparagraph (B);

20 “(E) if the Secretary has obtained written
21 authorization from the person submitting such
22 information to release such information to per-
23 sons for reasons not otherwise provided for in
24 this subsection, and such release does not vio-
25 late any other requirement of this Act; or



1 “(F) if such information is required to be
2 submitted to the Secretary for any determina-
3 tion under a limited access program.

4 “(2) Any observer information, Vessel Moni-
5 toring System, or other technology used on-board for
6 enforcement or data collection purposes, shall be
7 confidential and shall not be disclosed, except—

8 “(A) in accordance with the requirements
9 of subparagraphs (A) through (F) of paragraph
10 (1);

11 “(B) as authorized by a fishery manage-
12 ment plan or regulations under the authority of
13 the North Pacific Council to allow disclosure to
14 the public of weekly summary bycatch informa-
15 tion identified by vessel or for haul-specific by-
16 catch information without vessel identification;

17 “(C) when such information is necessary in
18 proceedings to adjudicate observer certifi-
19 cations; or

20 “(D) as authorized by any regulations
21 issued under paragraph (4) allowing the collec-
22 tion of observer information, pursuant to a con-
23 fidentiality agreement between the observers,
24 observer employers, and the Secretary prohib-



1 iting disclosure of the information by the ob-
2 servers or observer employers, in order—

3 “(i) to allow the sharing of observer
4 information among observers and between
5 observers and observer employers as nec-
6 essary to train and prepare observers for
7 deployments on specific vessels; or

8 “(ii) to validate the accuracy of the
9 observer information collected.

10 “(3) The Secretary may enter into a memo-
11 randum of understanding with the heads of other
12 Federal agencies for the sharing of confidential in-
13 formation for purposes of this Act, such as Vessel
14 Monitoring System or other electronic monitoring
15 systems, if the Secretary determines there is a com-
16 pelling need to do so and if the heads of the other
17 Federal agencies agree to maintain the confiden-
18 tiality of the information in accordance with the re-
19 quirements that apply to the Secretary under this
20 section.”; and

21 (C) in paragraph (3), as so redesignated,
22 by striking “(1)(E).” and inserting “(2)(B).”.

23 (2) CONFORMING AMENDMENT.—Section
24 404(c)(4) (16 U.S.C. 1881c(c)(4)) is amended by
25 striking “under section 401”.



1 (3) DEFINITIONS.—Section 3 (16 U.S.C. 1802)
2 is further amended in subsection (a)—

3 (A) by inserting after paragraph (4) the
4 following:

5 “(4A) The term ‘confidential information’
6 means—

7 “(A) trade secrets; or

8 “(B) commercial or financial information
9 the disclosure of which is likely to result in sub-
10 stantial harm to the competitive position of the
11 person who submitted the information to the
12 Secretary.”; and

13 (B) by inserting after paragraph (27) the
14 following:

15 “(27A) The term ‘observer information’ means
16 any information collected, observed, retrieved, or cre-
17 ated by an observer or electronic monitoring system
18 pursuant to authorization by the Secretary, or col-
19 lected as part of a cooperative research initiative, in-
20 cluding fish harvest or fish processing observations,
21 fish sampling or weighing data, vessel logbook data,
22 vessel- or fish processor-specific information (includ-
23 ing any safety, location, or operating condition ob-
24 servations), and video, audio, photographic, or writ-
25 ten documents.”.



1 (d) SOCIOECONOMIC DATA COLLECTION ACTIVI-
2 TIES.—Section 402 (16 U.S.C. 1881a) is further amended
3 by adding at the end the following:

4 “(g) SOCIOECONOMIC DATA COLLECTION.—

5 “(1) The Secretary may provide funds to Coun-
6 cils to carry out collection of socioeconomic data, in-
7 cluding information on fishermen and fishing com-
8 munities, necessary to carry out the functions of the
9 Councils.

10 “(2) To carry out this subsection there is au-
11 thorized to be appropriated to the Secretary, in addi-
12 tion to other amounts authorized, \$2,000,000 for
13 each fiscal year.”.

14 (e) NEED FOR MORE FREQUENT STOCK SURVEYS.—
15 The Secretary of Commerce—

16 (1) shall determine the need for more frequent
17 surveys of stocks of fish, and whether State agencies
18 or cooperative research activities can fill the data
19 gaps identified; and

20 (2) submit a report to the Congress on the cur-
21 rent activities and the needs for such surveys, by not
22 later than 2 years after the date of the enactment
23 of this Act.



1 **SEC. 5. COUNCIL OPERATIONS AND AUTHORITIES.**

2 (a) COUNCIL APPOINTMENTS.—Section 302(b)(2)(C)
3 (16 U.S.C. 1852(b)(2)(C)) is amended by inserting after
4 the first sentence the following: “A Governor may submit
5 the names of individuals from academia, or other public
6 interest areas including conservation organizations and
7 the seafood consuming public, if the Governor has deter-
8 mined that each such individual is qualified under the re-
9 quirements of subparagraph (A).”.

10 (b) TRAINING.—Section 302 (16 U.S.C. 1852) is
11 amended by adding at the end the following:

12 “(k) COUNCIL TRAINING PROGRAM.—

13 “(1) TRAINING COURSE.—Within 6 months
14 after the date of the enactment of the American
15 Fisheries Management and Marine Life Enhance-
16 ment Act, the Secretary, in consultation with the
17 Councils and the National Sea Grant College Pro-
18 gram, shall develop a training course for newly ap-
19 pointed Council members. The course may cover a
20 variety of topics relevant to matters before the
21 Councils, including—

22 “(A) fishery science and basic stock assess-
23 ment methods;

24 “(B) fishery management techniques, data
25 needs, and Council procedures;

26 “(C) social science and fishery economics;



1 “(D) tribal treaty rights and native cus-
2 toms, access, and other rights related to West-
3 ern Pacific indigenous communities;

4 “(E) legal requirements of this Act, includ-
5 ing conflict of interest and disclosure provisions
6 of this section and related policies;

7 “(F) other relevant legal and regulatory
8 requirements, including the National Environ-
9 mental Policy Act (42 U.S.C. 4321 et seq.);

10 “(G) public process for development of
11 fishery management plans;

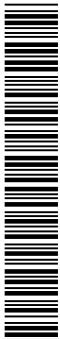
12 “(H) recreational and commercial fishing
13 information including fish harvesting tech-
14 niques, gear types, fishing vessel types, and eco-
15 nomics, for the fisheries within each Council’s
16 jurisdiction; and

17 “(I) other topics suggested by the Council.

18 “(2) MEMBER TRAINING.—The training
19 course—

20 “(A) shall be available to both new and ex-
21 isting Council members, staff from the regional
22 offices and regional science centers of the Na-
23 tional Marine Fisheries Service; and

24 “(B) may be made available to committee
25 or advisory panel members as resources allow.



1 “(3) REQUIRED TRAINING.—Council members
2 appointed after the date of the enactment of the
3 American Fisheries Management and Marine Life
4 Enhancement Act must complete the training course
5 developed under this subsection.”.

6 (c) AUTHORITY TO DEVELOP ECOSYSTEM-BASED
7 FISHERY MANAGEMENT PLANS.—Section 303(b) (16
8 U.S.C. 1853(b)) is further amended by adding at the end
9 the following:

10 “(14) contain research, conservation, and man-
11 agement measures that encompass more than one
12 fishery and are for the purpose of managing the
13 fishery resources concerned under an ecosystem-
14 based management system;”.

15 (d) AUTHORITY TO REQUIRE VESSEL MONITORING
16 SYSTEMS.—Section 303 (16 U.S.C. 1853) is further
17 amended by adding at the end the following:

18 “(15) require a Vessel Monitoring System or
19 other similar electronic monitoring technology for
20 the purposes of enforcing, monitoring, or collecting
21 data from a fishery or fishery sector;”.

22 (e) OBSERVER FUNDING CLARIFICATION.—Section
23 303 (16 U.S.C. 1853) is further amended by adding at
24 the end the following:

25 “(e) OBSERVER PROVISIONS.—



1 “(1) COSTS.—Costs for observer coverage that
2 is primarily for the enforcement of a fishery man-
3 agement plan or for data collection necessary for the
4 monitoring of a fishery—

5 “(A) shall be paid for by the Secretary;
6 and

7 “(B) under a limited access program, may
8 be considered as a cost to be recovered under
9 the authority of section 303A(e)(2).

10 “(2) LIABILITY FOR SANCTIONS.—A fishing
11 vessel that is required to have an observer onboard
12 pursuant to section 303(b)(8), the owner or operator
13 of such a fishing vessel, and the United States shall
14 not be liable for any sanction imposed on the ob-
15 server for actions of the observer in the course of
16 performance of duties as an observer.”.

17 (f) INCENTIVES.—Section 303(b) (16 U.S.C.
18 1853(b)) is further amended by adding at the end the fol-
19 lowing:

20 “(16) establish a system of incentives to reduce
21 total bycatch and seabird interaction, bycatch rates,
22 and post-release mortality in fisheries under the
23 Council’s or Secretary’s jurisdiction, including—



1 “(A) measures to incorporate bycatch into
2 quotas, including the establishment of collective
3 or individual bycatch quotas;

4 “(B) measures to promote the use of gear
5 with verifiable and monitored low bycatch and
6 seabird interaction rates; and

7 “(C) measures that, based on the best sci-
8 entific information available, will reduce bycatch
9 and seabird interaction, bycatch mortality, post-
10 release mortality, or regulatory discards in the
11 fishery;”.

12 (g) HABITAT AREAS OF PARTICULAR CONCERN.—

13 (1) IDENTIFICATION.—Section 303(b) (16
14 U.S.C. 1853(b)) is further amended by adding at
15 the end the following:

16 “(17) identify habitat areas of particular con-
17 cern;”.

18 (2) DEFINITION.—Section 3 (16 U.S.C. 1802)
19 is further amended in subsection (a) by inserting
20 after paragraph (18) the following:

21 “(18A) The term ‘habitat area of particular
22 concern’ means a discrete habitat area that is essen-
23 tial fish habitat and that—

24 “(A) provides important ecological func-
25 tions;



1 “(B) is sensitive to human-induced envi-
2 ronmental degradation; or

3 “(C) is a rare habitat type.”.

4 (h) MARINE PROTECTED AREAS AUTHORITY.—

5 (1) DISCRETIONARY AUTHORITY.—Section
6 303(b) (16 U.S.C. 1853(b)) is further amended by
7 adding at the end the following:

8 “(18) designate closed areas, seasonal closures,
9 time/area closures, gear restrictions, or other meth-
10 ods for limiting impacts on habitat, limit bycatch
11 impacts of gear, or limit fishing impact on spawning
12 congregations in specific geographic areas;”.

13 (2) REQUIREMENTS.—Section 303(a) (16
14 U.S.C. 1853(a)) is further amended by adding at
15 the end the following:

16 “(16) with respect to any closure of an area to
17 all fisheries managed under this Act, include provi-
18 sions that ensure that such closure—

19 “(A) is based on the best scientific infor-
20 mation available;

21 “(B) includes criteria to assess the con-
22 servation benefit of the closed area;

23 “(C) establishes a timetable for review of
24 the closed area’s performance that is consistent
25 with the purposes of the closed area; and



1 “(D) is based on an assessment of the ben-
2 efits and impacts of the closure, including its
3 size, in relation to other management measures
4 (either alone or in combination with such meas-
5 ures), including the benefits and impacts of lim-
6 iting access to—

7 “(i) users of the area;

8 “(ii) overall fishing activity;

9 “(iii) fishery science; and

10 “(iv) fishery and marine conserva-
11 tion;”.

12 (i) FRAMEWORK AUTHORITY.—Section 304 (16
13 U.S.C. 1854) is amended by adding at the end the fol-
14 lowing:

15 “(i) ALTERNATIVE PROCEDURAL MECHANISMS.—

16 “(1) In a fishery management plan or amend-
17 ment, the Council or Secretary, as appropriate, may
18 develop alternative procedural mechanisms to be
19 used in lieu of plan amendments for implementing
20 conservation and management measures.

21 “(2) Such mechanisms may allow for abbrevi-
22 ated processes for the implementation of regula-
23 tions or other actions as appropriate.



1 “(3) Alternative procedural mechanisms shall
2 only be approved or adopted for use in situations in
3 which—

4 “(A) the conservation and management
5 measures are within the scope of conservation
6 and management measures established in an ex-
7 isting fishery management plan;

8 “(B) otherwise applicable regulatory proc-
9 esses are not sufficient to allow timely and effi-
10 cient implementation of conservation and man-
11 agement measures in response to new informa-
12 tion; and

13 “(C) notice of the conservation and man-
14 agement measures is provided appropriate to
15 the significance of the expected impacts on af-
16 fected fishery resources and on the participants
17 in the fishery.

18 “(4) Any final agency action taken pursuant to
19 the alternative procedural mechanism must be
20 promptly published in the Federal Register.

21 “(5) If the alternative procedural mechanism is
22 approved by the Secretary pursuant to section
23 304(a), or adopted by the Secretary pursuant to sec-
24 tion 304(c) or (g) and implemented through regula-
25 tions, any regulation issued or other action taken



1 pursuant to the alternative procedural mechanism
2 need not comply with the rulemaking provisions of
3 section 304(b), (c), or (g) of this Act, or section
4 553(b) through (d) of title 5, United States Code.”.

5 (j) COUNCIL MEETING NOTICE.—

6 (1) REGULAR AND EMERGENCY MEETINGS.—

7 The first sentence of section 302(i)(2)(C) (16 U.S.C.
8 1852(i)(2)(C)) is amended—

9 (A) by striking “published in local news-
10 papers” and inserting “provided by any means
11 that will result in wide publicity (except that e-
12 mail notification and Web site postings alone
13 are not sufficient)”;

14 (B) by striking “fishery) and such notice
15 may be given by such other means as will result
16 in wide publicity.” and inserting “fishery).”.

17 (2) CLOSED MEETINGS.—Section 302(i)(3)(B)
18 (16 U.S.C. 1852(i)(3)(B)) is amended by striking
19 “notify local newspapers” and inserting “provide no-
20 tice by any means that will result in wide publicity”.

21 (k) CARIBBEAN COUNCIL JURISDICTION.—Section
22 302(a)(1)(D) (16 U.S.C. 1852(a)(1)(D)) is amended by
23 inserting “and of commonwealths, territories, and posses-
24 sions of the United States in the Caribbean Sea” after
25 “seaward of such States”.



1 (l) COUNCIL COORDINATION COMMITTEE.—Section
2 302 (16 U.S.C. 1852) is further amended by adding at
3 the end the following:

4 “(l) COUNCIL COORDINATION COMMITTEE.—The
5 Councils may establish a Council coordination committee
6 to discuss issues of relevance to all Councils, including
7 issues related to the implementation of this Act. The com-
8 mittee shall consist of the chairs, vice chairs, and executive
9 directors of each of the Councils described in subsection
10 (a)(1), or other Council members or staff.”.

11 **SEC. 6. ECOSYSTEM-BASED FISHERY MANAGEMENT.**

12 (a) POLICY.—Section 2(c) (16 U.S.C. 1851(c)) is
13 amended by striking “and” after the semicolon at the end
14 of paragraph (6), by striking the period at the end of para-
15 graph (7) and inserting “; and”, and by adding at the
16 end the following:

17 “(8) to support and encourage efforts to under-
18 stand the interactions of species in the marine envi-
19 ronment and the development of ecosystem-based
20 approaches to fisheries conservation and manage-
21 ment that will lead to better stewardship and sus-
22 tainability of the Nation’s coastal fishery resources
23 and fishing communities.”.



1 (b) AUTHORIZATION OF RESEARCH.—Section 404(c)
2 (16 U.S.C. 1881c(c)) is amended by adding at the end
3 the following:

4 “(5) The interaction of species in the marine
5 environment, and the development of ecosystem-
6 based approaches to fishery conservation and man-
7 agement that will lead to better stewardship and
8 sustainability of coastal fishery resources.”.

9 (c) REGULATIONS DEFINING TERMS.—The Secretary
10 of Commerce shall, in conjunction with the Regional Fish-
11 ery Management Councils and based on the recommenda-
12 tions of the Ecosystems Principles Advisory Panel in the
13 report entitled “Ecosystem-based Fishery Management. A
14 report to Congress by the Ecosystem Principles Advisory
15 Panel” and dated April 1999, and after provision of notice
16 and an opportunity for public comment, issue regulations
17 that establish definitions of the terms “ecosystem” and
18 “marine ecosystem” for purposes of the Magnuson-Ste-
19 vens Fishery Conservation and Management Act (16
20 U.S.C. 1801 et seq.).

21 (d) REGIONAL ECOSYSTEM RESEARCH.—Section 406
22 (16 U.S.C. 1882) is amended by adding at the end the
23 following:

24 “(f) REGIONAL ECOSYSTEM RESEARCH.—



1 “(1) STUDY.—Within 180 days after the date
2 of enactment of the , the Secretary, in consultation
3 with the Councils, shall undertake and complete a
4 study on the state of the science for advancing the
5 concepts and integration of ecosystem considerations
6 in regional fishery management. The study should
7 build upon the recommendations of the advisory
8 panel and include—

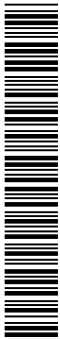
9 “(A) recommendations for scientific data,
10 information and technology requirements for
11 understanding ecosystem processes, and meth-
12 ods for integrating such information from a va-
13 riety of Federal, State, and regional sources;

14 “(B) recommendations for processes for in-
15 corporating broad stake holder participation;

16 “(C) recommendations for processes to ac-
17 count for effects of environmental variation on
18 fish stocks and fisheries; and

19 “(D) a description of existing and devel-
20 oping Council efforts to implement ecosystem
21 approaches, including lessons learned by the
22 Councils.

23 “(2) IDENTIFICATION OF MARINE ECOSYSTEMS;
24 RESEARCH PLAN.—



1 “(A) IN GENERAL.—Within one year after
2 the date of the publication of the study under
3 paragraph (1), the Secretary, in conjunction
4 with the regional science centers of the National
5 Marine Fisheries Service and the Councils,
6 shall—

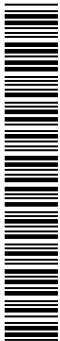
7 “(i) identify specific marine eco-
8 systems within each region for which a
9 Council is established by section 302(a);
10 and

11 “(ii) develop and begin to implement
12 regional research plans to address the in-
13 formation deficiencies identified by the
14 study.

15 “(B) RESEARCH PLANS.—The research
16 plans shall suggest reasonable timeliness and
17 cost estimates for the collection of the required
18 information.

19 “(C) REPORTS.—The Secretary shall re-
20 port to the Congress annually on the progress
21 of the regional research plans.

22 “(3) AGENCY TECHNICAL ADVICE AND ASSIST-
23 ANCE, REGIONAL PILOT PROGRAMS.—The Secretary
24 is authorized to provide necessary technical advice
25 and assistance, including grants, to the Councils for



1 the development and design of regional pilot pro-
2 grams that build upon the recommendations of the
3 advisory panel and, when completed, the study.”.

4 **SEC. 7. LIMITED ACCESS PRIVILEGE PROGRAMS.**

5 (a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.)
6 is amended—

7 (1) by striking section 303(d); and

8 (2) by inserting after section 303 the following:

9 **“SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

10 “(a) IN GENERAL.—After the date of enactment of
11 the American Fisheries Management and Marine Life En-
12 hancement Act, a Council may submit, and the Secretary
13 may approve, for a fishery that is managed under a limited
14 access system, a limited access privilege program to har-
15 vest fish if the program meets the requirements of this
16 section.

17 “(b) NO CREATION OF RIGHT, TITLE, OR INTER-
18 EST.—A limited access system, limited access privilege,
19 quota share, or other authorization established, imple-
20 mented, or managed under this Act—

21 “(1) shall be considered a permit for the pur-
22 poses of sections 307, 308, and 309;

23 “(2) may be revoked, limited, or modified at
24 any time in accordance with this Act, including rev-
25 ocation for failure to comply with the terms of the



1 plan or if the system is found to have jeopardized
2 the sustainability of the stock or the safety of fisher-
3 men;

4 “(3) shall not confer any right of compensation
5 to the holder of such limited access privilege, quota
6 share, or other such limited access system authoriza-
7 tion if it is revoked, limited, or modified;

8 “(4) shall not create, or be construed to create,
9 any right, title, or interest in or to any fish before
10 the fish is harvested by the holder; and

11 “(5) shall be considered a grant of permission
12 to the holder of the limited access privilege or quota
13 share to engage in activities permitted by such lim-
14 ited access privilege or quota share.

15 “(c) REQUIREMENTS FOR LIMITED ACCESS PRIVI-
16 LEGES.—

17 “(1) IN GENERAL.—In addition to complying
18 with the other requirements of this Act, any limited
19 access privilege program to harvest fish submitted
20 by a Council or approved by the Secretary under
21 this section shall—

22 “(A) if established in a fishery that is over-
23 fished or subject to a rebuilding plan, assist in
24 its rebuilding;



1 “(B) if established in a fishery that is de-
2 termined by the Secretary or the Council to
3 have over-capacity, contribute to reducing ca-
4 pacity;

5 “(C) promote—

6 “(i) the safety of human life at sea;
7 and

8 “(ii) the conservation and manage-
9 ment of the fishery;

10 “(D) prohibit any person other than a
11 United States citizen, a corporation, partner-
12 ship, or other entity established under the laws
13 of the United States or any State, or a perma-
14 nent resident alien, that meets the eligibility
15 and participation requirements established in
16 the program from acquiring a privilege to har-
17 vest fish;

18 “(E) specify the goals of the program;

19 “(F) include provisions for the regular
20 monitoring and review by the Council and the
21 Secretary of the operations of the program, in-
22 cluding determining progress in meeting the
23 goals of the program and this Act, and any nec-
24 essary modification of the program to meet
25 those goals, with a formal and detailed review



1 5 years after the establishment of the program
2 and every 5 years thereafter;

3 “(G) include an effective system for en-
4 forcement, monitoring, and management of the
5 program, including the use of observers;

6 “(H) include an appeals process for admin-
7 istrative review of determinations with respect
8 to the Secretary’s decisions regarding adminis-
9 tration of the limited access privilege program;
10 and

11 “(I) provide for the revocation by the Sec-
12 retary of limited access privileges held by any
13 person found to have violated the antitrust laws
14 of the United States.

15 “(2) FISHING COMMUNITIES.—

16 “(A) IN GENERAL.—

17 “(i) ELIGIBILITY.—To be eligible to
18 participate in a limited access privilege
19 program to harvest fish, a fishing commu-
20 nity shall—

21 “(I) be located within the man-
22 agement area of the relevant Council;

23 “(II) meet criteria developed by
24 the relevant Council, approved by the

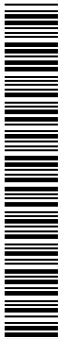


1 Secretary, and published in the Fed-
2 eral Register;

3 “(III) consist of residents of the
4 management area of the relevant
5 Council who conduct commercial or
6 recreational fishing, fish processing,
7 or fishery-dependent support busi-
8 nesses within such area; and

9 “(IV) develop and submit a com-
10 munity sustainability plan to the
11 Council and the Secretary that dem-
12 onstrates how the plan will address
13 the social and economic development
14 needs of fishing communities, includ-
15 ing those that have not historically
16 had the resources to participate in the
17 fishery, for approval by the Council
18 based on criteria developed by the
19 Council that have been approved by
20 the Secretary and published in the
21 Federal Register.

22 “(ii) FAILURE TO COMPLY WITH
23 PLAN.—The Secretary shall deny or revoke
24 limited access privileges for a person that
25 were granted to a fishing community, if



1 the person fails to comply with the require-
2 ments of the community sustainability plan
3 approved by the relevant Council under
4 clause (i)(IV).

5 “(B) PARTICIPATION CRITERIA.—In devel-
6 oping participation criteria for eligible commu-
7 nities under this paragraph, a Council shall
8 consider—

9 “(i) traditional fishing or fish proc-
10 essing practices in, and dependence on, the
11 fishery;

12 “(ii) the cultural and social frame-
13 work relevant to the fishery;

14 “(iii) economic barriers to access to
15 fishery;

16 “(iv) the existence and severity of pro-
17 jected economic and social impacts associ-
18 ated with implementation of limited access
19 privilege programs on harvesters, fishing
20 vessel captains and crews, fish processors,
21 and other businesses substantially depend-
22 ent upon the fishery in the region or sub-
23 region;



1 “(v) the expected effectiveness, oper-
2 ational transparency, and equitability of
3 the community sustainability plan; and

4 “(vi) the potential for improving eco-
5 nomic conditions in remote coastal commu-
6 nities lacking resources to participate in
7 harvesting or fish processing activities in
8 the fishery.

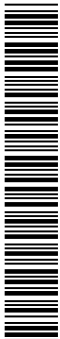
9 “(3) REGIONAL FISHERY ASSOCIATIONS.—

10 “(A) IN GENERAL.—To be eligible to par-
11 ticipate in a limited access privilege program to
12 harvest fish, a regional fishery association
13 shall—

14 “(i) be located within the management
15 area of the relevant Council;

16 “(ii) meet criteria developed by the
17 relevant Council, approved by the Sec-
18 retary, and published in the Federal Reg-
19 ister;

20 “(iii) be a voluntary association with
21 established by-laws and operating proce-
22 dures consisting of participants in the fish-
23 ery, including commercial or recreational
24 fishing, fish processing, fishery-dependent



1 support businesses, or fishing communities;
2 and

3 “(iv) develop and submit a regional
4 fishery association plan to the Council and
5 the Secretary for approval by the Council
6 based on criteria developed by the Council
7 that have been approved by the Secretary
8 and published in the Federal Register.

9 “(B) FAILURE TO COMPLY WITH PLAN.—
10 The Secretary shall deny or revoke limited ac-
11 cess privileges for a person that were granted to
12 a fishery association, if the person fails to com-
13 ply with the requirements of the regional fish-
14 ery association plan approved by the relevant
15 Council under subparagraph (A)(iv).

16 “(C) PARTICIPATION CRITERIA.—In devel-
17 oping participation criteria for eligible regional
18 fishery associations under this paragraph, a
19 Council shall consider—

20 “(i) traditional fishing or fish proc-
21 essing practices in, and dependence on, the
22 fishery;

23 “(ii) the cultural and social frame-
24 work relevant to the fishery;



1 “(iii) economic barriers to access to
2 fishery;

3 “(iv) the existence and severity of pro-
4 jected economic and social impacts associ-
5 ated with implementation of limited access
6 privilege programs on harvesters, captains,
7 crew, fish processors, and other businesses
8 substantially dependent upon the fishery in
9 the region or subregion, upon the adminis-
10 trative and fiduciary soundness of the as-
11 sociation and its by-laws; and

12 “(v) the expected effectiveness, oper-
13 ational transparency, and equitability of
14 the fishery association plan.

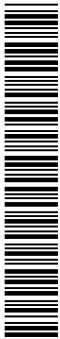
15 “(4) ALLOCATION.—In developing a limited ac-
16 cess privilege program to harvest fish a Council or
17 the Secretary shall—

18 “(A) establish procedures to ensure fair
19 and equitable initial allocations, including con-
20 sideration of—

21 “(i) current and historical harvests;

22 “(ii) employment in the harvesting
23 and fish processing sectors;

24 “(iii) investments in, and dependence
25 upon, the fishery; and



1 “(iv) the current and historical par-
2 ticipation of fishing communities;

3 “(B) to the extent practicable, consider the
4 basic cultural and social framework of the fish-
5 ery, especially through the development of poli-
6 cies to promote the sustained participation of
7 small owner-operated fishing vessels and fishing
8 communities that depend on the fisheries, in-
9 cluding regional or port-specific landing or de-
10 livery requirements;

11 “(C) include measures to assist, when nec-
12 essary and appropriate, entry-level and small
13 vessel operators, captains, crew, and fishing
14 communities through set-asides of harvesting
15 allocations, including providing privileges and,
16 where appropriate, recommending the provision
17 of economic assistance in the purchase of lim-
18 ited access privileges to harvest fish;

19 “(D) ensure that limited access privilege
20 holders do not acquire an excessive share of the
21 total limited access privileges in the program
22 by—

23 “(i) establishing a maximum share,
24 expressed as a percentage of the total lim-
25 ited access privileges, that a limited access



1 privilege holder is permitted to hold, ac-
2 quired, or use; and

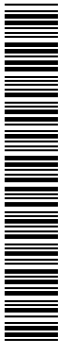
3 “(ii) establishing any other limitations
4 or measures necessary to prevent an in-
5 equitable concentration of limited access
6 privileges;

7 “(E) establish procedures to address geo-
8 graphic or other consolidation in both the har-
9 vesting and fish processing sectors of the fish-
10 ery; and

11 “(F) authorize limited access privileges to
12 harvest fish to be held, acquired, or used by or
13 issued under the system to persons who sub-
14 stantially participate in the fishery, as specified
15 by the Council, including, as appropriate, fish-
16 ing vessel owners, vessel captains, vessel crew
17 members, fishing communities, and regional
18 fishery associations.

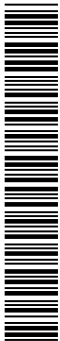
19 “(5) PROGRAM INITIATION.—

20 “(A) LIMITATION.—Except as provided in
21 subparagraph (D), a Council may initiate a
22 fishery management plan or amendment to es-
23 tablish a limited access privilege program to
24 harvest fish on its own initiative or if the Sec-
25 retary has certified an appropriate petition.



1 “(B) PETITION.—A group of fishermen
2 constituting more than 50 percent of the permit
3 holders, or holding more than 50 percent of the
4 allocation, in the fishery for which a limited ac-
5 cess privilege program to harvest fish is sought,
6 may submit a petition to the Secretary request-
7 ing that the relevant Council or Councils with
8 authority over the fishery be authorized to ini-
9 tiate the development of the program. Any such
10 petition shall clearly state the fishery to which
11 the limited access privilege program would
12 apply. For multispecies permits in the Gulf,
13 only those participants who have substantially
14 fished the species proposed to be included in the
15 limited access program shall be eligible to sign
16 a petition for such a program and shall serve
17 as the basis for determining the percentage de-
18 scribed in the first sentence of this subpara-
19 graph.

20 “(C) CERTIFICATION BY SECRETARY.—
21 Upon the receipt of any such petition, the Sec-
22 retary shall review all of the signatures on the
23 petition and, if the Secretary determines that
24 the signatures on the petition represent more
25 than 50 percent of the permit holders, or hold-

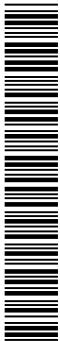


1 ers of more than 50 percent of the allocation in
2 the fishery, as described by subparagraph (B),
3 the Secretary shall certify the petition to the
4 appropriate Council or Councils.

5 “(D) NEW ENGLAND REFERENDUM.—

6 “(i) The New England Council may
7 not submit, and the Secretary may not ap-
8 prove or implement, a fishery management
9 plan or amendment that creates an indi-
10 vidual fishing quota program, including a
11 Secretarial plan, unless such a system, as
12 ultimately developed, has been approved by
13 more than $\frac{2}{3}$ of those voting in a ref-
14 erendum among eligible permit holders
15 with respect to the New England Council.
16 If an individual fishing quota program fails
17 to be approved by the requisite number of
18 those voting, it may be revised and sub-
19 mitted for approval in a subsequent ref-
20 erendum.

21 “(ii) The Secretary shall conduct a
22 referendum under this subparagraph, in-
23 cluding notifying all persons eligible to
24 participate in the referendum and making
25 available to them information concerning



1 the schedule, procedures, and eligibility re-
2 quirements for the referendum process and
3 the proposed individual fishing quota pro-
4 gram. Within 1 year after the date of en-
5 actment of the American Fisheries Man-
6 agement and Marine Life Enhancement
7 Act, the Secretary shall publish guidelines
8 and procedures to determine procedures
9 and voting eligibility requirements for
10 referenda and to conduct such referenda in
11 a fair and equitable manner.

12 “(E) GULF OF MEXICO.—The provisions of
13 section 407(c) of this Act shall apply in lieu of
14 this paragraph for an individual fishing quota
15 program for the Gulf of Mexico commercial red
16 snapper fishery.

17 “(F) OTHER LAW.—Chapter 35 of title 44,
18 United States Code, (commonly known as the
19 Paperwork Reduction Act) does not apply to
20 the referenda conducted under this subpara-
21 graph.

22 “(6) TRANSFERABILITY.—In establishing a lim-
23 ited access privilege program, a Council shall—

24 “(A) establish a policy on the transfer-
25 ability of limited access privilege shares



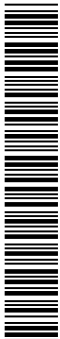
1 (through sale or lease), including a policy on
2 any conditions that apply to the transferability
3 of limited access privilege shares that is con-
4 sistent with the policies adopted by the Council
5 for the fishery under paragraph (2); and

6 “(B) establish criteria for the approval and
7 monitoring of transfers (including sales and
8 leases) of limited access privilege shares.

9 “(7) PREPARATION AND IMPLEMENTATION OF
10 SECRETARIAL PLANS.—This subsection also applies
11 to a plan prepared and implemented by the Sec-
12 retary under section 304(g).

13 “(8) LIMITATION ON FEDERAL AGENCIES AND
14 OFFICIALS.—A Federal agency or official may not
15 hold, administer, or reallocate an individual quota
16 issued under a fishery management plan under this
17 section, other than the Secretary and the Council
18 having authority over the fishery for which the indi-
19 vidual quota is issued.

20 “(d) AUCTION AND OTHER PROGRAMS.—In estab-
21 lishing a limited access privilege program, a Council may
22 consider, and provide for, if appropriate, an auction sys-
23 tem or other program to collect royalties for the initial,
24 or any subsequent, distribution of allocations in a limited
25 access privilege program if—



1 “(1) the system or program is administered in
2 such a way that the resulting distribution of limited
3 access privilege shares meets the program require-
4 ments of subsection (c)(2)(A); and

5 “(2) revenues generated through such a royalty
6 program are deposited in the Limited Access System
7 Administration Fund established by section
8 305(h)(5)(B) and available subject to annual appro-
9 priations.

10 “(e) COST RECOVERY.—In establishing a limited ac-
11 cess privilege program, a Council shall—

12 “(1) develop a methodology and the means to
13 identify and assess the management, data collection
14 and analysis, and enforcement programs that are di-
15 rectly related to and in support of the program; and

16 “(2) provide, under section 304(d)(2), for a
17 program of fees paid by limited access privilege hold-
18 ers that will cover the costs of management, data
19 collection and analysis, and enforcement activities.

20 “(f) LIMITED DURATION.—In establishing a limited
21 access privilege program after the date of enactment of
22 the American Fisheries Management and Marine Life En-
23 hancement Act, a Council may establish—

24 “(1) a period of time after which any initial or
25 subsequent allocation of a limited access privilege



1 shall expire, or various periods for such expiration
2 within a fishery if the Council determines that vari-
3 ation of the periods will further achievement of man-
4 agement goals; and

5 “(2) a mechanism under which participants in
6 and entrants to the program may acquire or reac-
7 quire allocations.

8 “(g) LIMITED ACCESS PRIVILEGE ASSISTED PUR-
9 CHASE PROGRAM.—

10 “(1) IN GENERAL.—A Council may submit, and
11 the Secretary may approve and implement, a pro-
12 gram that reserves up to 25 percent of any fees col-
13 lected from a fishery under section 304(d)(2) to be
14 used to issue obligations that aid in financing—

15 “(A) the purchase of limited access privi-
16 leges in that fishery by fishermen who fish from
17 small vessels; and

18 “(B) the first-time purchase of limited ac-
19 cess privileges in that fishery by entry level
20 fishermen.

21 “(2) ELIGIBILITY CRITERIA.—A Council mak-
22 ing a submission under paragraph (1) shall rec-
23 ommend criteria, consistent with the provisions of
24 this Act, that a fisherman must meet to qualify for
25 guarantees under subparagraphs (A) and (B) of



1 paragraph (1) and the portion of funds to be allo-
2 cated for guarantees under each subparagraph.

3 “(h) EFFECT ON CERTAIN EXISTING SHARES AND
4 PROGRAMS.—Nothing in this Act, or the amendments
5 made by the American Fisheries Management and Marine
6 Life Enhancement Act, shall be construed to require a re-
7 allocation of individual quota shares, fish processor quota
8 shares, cooperative programs, or other quota programs,
9 including sector allocation, under development or sub-
10 mitted by a Council or approved by the Secretary or by
11 Congressional action before the date of enactment of the
12 .”.

13 (b) FEES.—Section 304(d)(2) (16 U.S.C.
14 1854(d)(2)) is amended—

15 (1) by redesignating subparagraphs (B) and
16 (C) as subparagraphs (F) and (G), respectively;

17 (2) in subparagraph (F), as so redesignated, by
18 striking “Such fee” and inserting “A fee under this
19 paragraph”; and

20 (3) by striking “(2)(A)” and all that follows
21 through the end of subparagraph (A) and inserting
22 the following:

23 “(2)(A) Notwithstanding paragraph (1), the
24 Secretary shall collect from a person that holds or
25 transfers an individual quota issued under a limited



1 access system established under section 303(b)(6)
2 fees established by the Secretary in accordance with
3 this section and section 9701(b) of title 31, United
4 States Code.

5 “(B) The fees required to be established and
6 collected by the Secretary under this paragraph are
7 the following:

8 “(i) With respect to any initial allocation
9 under a limited access system established after
10 the date of the enactment of the American
11 Fisheries Management and Marine Life En-
12 hancement Act, an initial allocation fee in an
13 amount, determined by the Secretary, equal to
14 1 percent of the ex-vessel value of fish author-
15 ized in one year under an individual quota, that
16 shall be collected from the person to whom the
17 individual quota is first issued.

18 “(ii) An annual fee in an amount, deter-
19 mined by the Secretary, not to exceed 3 percent
20 of the ex-vessel value of fish authorized each
21 year under an individual quota share, that shall
22 be collected from the holder of the individual
23 quota share.

24 “(iii) A transfer fee in an amount, deter-
25 mined by the Secretary, equal to 1 percent of



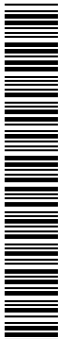
1 the ex-vessel value of fish authorized each year
2 under an individual quota share, that shall be
3 collected from a person who permanently trans-
4 fers the individual quota share to another per-
5 son.

6 “(C) In determining the amount of a fee under
7 this paragraph, the Secretary shall ensure that the
8 amount is commensurate with the cost of managing
9 the fishery with respect to which the fee is collected,
10 including reasonable costs for salaries, data analysis,
11 and other costs directly related to fishery manage-
12 ment and enforcement.

13 “(D) The Secretary, in consultation with the
14 Councils, shall promulgate regulations prescribing
15 the method of determining under this paragraph the
16 ex-vessel value of fish authorized under an individual
17 quota share, the amount of fees, and the method of
18 collecting fees.

19 “(E) Fees collected under this paragraph from
20 holders of individual quotas in a fishery shall be an
21 offsetting collection and shall be available to the Sec-
22 retary only for the purposes of administering and
23 implementing this Act with respect to that fishery.”.

24 (c) CONFORMING AMENDMENT.—Section
25 304(d)(2)(F)(i), as redesignated by subsection (b)(1) of



1 this section, is amended by striking “section
2 305(h)(5)(B)” and all that follows and inserting “section
3 305(h)(5)(B).”.

4 (d) LIMITED ACCESS PRIVILEGE DEFINED.—Sub-
5 section (a) of section 3 (16 U.S.C. 1802) is further
6 amended by inserting after paragraph (23) the following:

7 “(23A) The term ‘limited access privilege’—

8 “(A) means a Federal permit, issued as
9 part of a limited access system under section
10 303A to harvest a quantity of fish that may be
11 received or held for exclusive use by a person;
12 and

13 “(B) includes an individual fishing quota;
14 but

15 “(C) does not include community develop-
16 ment quotas as described in section 305(i).”.

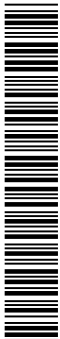
17 **SEC. 8. JOINT FISHERIES ENFORCEMENT AGREEMENTS.**

18 Section 311 (16 U.S.C. 1861) is amended—

19 (1) by striking “and” after the semicolon in
20 subsection (b)(1)(A)(iv);

21 (2) by inserting “and” after the semicolon in
22 subsection (b)(1)(A)(v);

23 (3) by inserting after clause (v) of subsection
24 (b)(1)(A) the following:



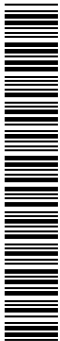
1 “(vi) access, directly or indirectly, for
2 enforcement purposes any data or informa-
3 tion required to be provided under this
4 title or regulations under this title, includ-
5 ing data from vessel monitoring systems,
6 or any similar system, subject to the con-
7 fidentiality provisions of section 402;”;

8 (4) by redesignating subsection (h) as sub-
9 section (j); and

10 (5) by inserting after subsection (g) the fol-
11 lowing:

12 “(h) JOINT FISHERIES ENFORCEMENT AGREE-
13 MENTS.—

14 “(1) IN GENERAL.—The Governor of an eligible
15 State may apply to the Secretary for execution of a
16 joint fisheries enforcement agreement with the Sec-
17 retary that will authorize the deputation and fund-
18 ing of State officers with marine fisheries respon-
19 sibilities to perform duties of the Secretary relating
20 to fisheries enforcement provisions under this title or
21 any other marine resource law enforced by the Sec-
22 retary. Upon receiving an application meeting the
23 requirements of this subsection, the Secretary may
24 enter into a joint fisheries enforcement agreement
25 with the requesting State.



1 “(2) ELIGIBLE STATE.—A State is eligible to
2 participate in the cooperative agreements under this
3 section if it is in, or bordering on, the Atlantic
4 Ocean (including the Caribbean Sea), the Pacific
5 Ocean, the Arctic Ocean, or the Gulf of Mexico.

6 “(3) REQUIREMENTS.—Joint fisheries enforce-
7 ment agreements executed under paragraph (1)—

8 “(A) shall be consistent with the purposes
9 and intent of this section to the extent applica-
10 ble to the regulated activities; and

11 “(B) shall provide for confidentiality of
12 data and information submitted to the State
13 under section 402.

14 “(4) ALLOCATION OF FUNDS.—The Secretary
15 shall include in each joint fisheries enforcement
16 agreement an allocation of funds to assist in man-
17 agement of the agreement. The allocation shall be
18 fairly distributed among all eligible States partici-
19 pating in cooperative agreements under this sub-
20 section, based upon consideration of Federal marine
21 fisheries needs, the specific marine fisheries con-
22 servation needs of each participating eligible State,
23 and the capacity of the State to undertake the mis-
24 sion and assist with Federal needs. The agreement
25 may provide for amounts to be withheld by the Sec-



1 retary for the cost of any technical or other assist-
2 ance provided to the State by the Secretary under
3 the agreement.

4 “(i) IMPROVED DATA SHARING.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this Act, as soon as practicable but no
7 later than 21 months after the date of enactment of
8 the American Fisheries Management and Marine
9 Life Enhancement Act, the Secretary shall imple-
10 ment data-sharing measures to make any data re-
11 quired to be provided by this Act from vessel moni-
12 toring systems, or similar systems—

13 “(A) directly accessible by State officers
14 authorized under subsection (a) of this section;
15 and

16 “(B) available to a State management
17 agency involved in, or affected by, management
18 of a fishery if the State has entered into an
19 agreement with the Secretary under section
20 402(b)(1)(B) of this Act.

21 “(2) AGREEMENT REQUIRED.—The Secretary
22 shall promptly enter into an agreement with a State
23 under section 402(b)(1)(B) of this Act if—

24 “(A) the State provides a written opinion
25 or certification that State law allows the State



1 to maintain the confidentiality of information
2 required by Federal law to be kept confidential;
3 or

4 “(B) the Secretary is provided other rea-
5 sonable assurance that the State can and will
6 protect the identity or business of any person to
7 which such information relates.”.

8 **SEC. 9. FUNDING FOR FISHERY OBSERVER PROGRAMS.**

9 (a) NORTH PACIFIC RESEARCH PLAN.—Section 313
10 (16 U.S.C. 1862) is amended—

11 (1) by striking subsections (a), (b), (c), and (d);

12 (2) by redesignating existing subsections (e),
13 (f), (g), (h), and (i) as subsections (a), (b), (c), (d),
14 and (e), respectively; and

15 (3) in subsection (c), as so redesignated—

16 (A) in paragraph (1) by striking “North
17 Pacific Fishery Observer Fund” and inserting
18 “Fishery Observer Fund established under sec-
19 tion 403(e)”; and

20 (B) in paragraph (2)(A) by striking
21 “303(b)(10)” and inserting “303(b)(8)”.

22 (b) OBSERVER PROGRAM FUNDING.—Section 403
23 (16 U.S.C. 1881(b)) is amended by adding at the end the
24 following:

25 “(d) OBSERVER PROGRAM FUNDING MECHANISM.—



1 “(1) IN GENERAL.—The Secretary may estab-
2 lish a funding mechanism to cover the cost of an ob-
3 server program to monitor any fishery managed
4 under this Act or any other Act administered by the
5 Secretary, including the Northern Pacific halibut
6 fishery.

7 “(2) FORM OF MECHANISM.—

8 “(A) The Secretary may exercise broad
9 discretion in developing a funding mechanism
10 under this subsection, which may include a sys-
11 tem of fees, payments collected from limited ac-
12 cess privilege programs, or any other cost recov-
13 ery mechanism to pay for—

14 “(i) the cost of stationing observers
15 on board fishing vessels and United States
16 fish processors, and

17 “(ii) the actual cost of inputting data
18 and managing observer databases.

19 “(B) The moneys collected under a fund-
20 ing mechanism established under this sub-
21 section for an observer program shall be—

22 “(i) deposited into the Fishery Ob-
23 server Fund established under subsection
24 (e); and



1 “(ii) used only for the observer pro-
2 gram covering fisheries from which the
3 moneys were collected.

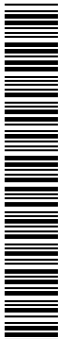
4 “(e) FISHERY OBSERVER FUND.—

5 “(1) ESTABLISHMENT OF FUND.—There is es-
6 tablished on the books of the Treasury of the United
7 States, a fund that shall be known as the Fishery
8 Observer Fund (in this subsection referred to as the
9 ‘Fund’). The Fund shall be administered by the Sec-
10 retary of Commerce. The Fund shall be available,
11 subject to the availability of appropriations, only to
12 the Secretary for purposes of carrying out subsection
13 (d). The Fund shall consist of all moneys deposited
14 into in it accordance with this section, plus interest
15 on those moneys.

16 “(2) INVESTMENT OF AMOUNT.—

17 “(A) It shall be the duty of the Secretary
18 of the Treasury to invest, at the direction of the
19 Secretary of Commerce, such portion of the
20 Fund that is not currently needed for the pur-
21 poses of each observer program covering fish-
22 eries from which moneys were collected under
23 subsection (d).

24 “(B) Such investments shall be in public
25 debt obligations with maturities suitable to the



1 needs of the Fund, as determined by the Sec-
2 retary of Commerce. Investments in public debt
3 obligations shall bear interest at rates deter-
4 mined by the Secretary of the Treasury taking
5 into consideration the current market yield on
6 outstanding marketable obligations of the
7 United States of comparable maturity.

8 “(3) SALE OF OBLIGATION.—Any obligation ac-
9 quired by the Fund may be sold by the Secretary of
10 the Treasury at the direction of the Secretary of
11 Commerce at market prices.

12 “(f) CONTRIBUTIONS.—For purposes of carrying out
13 subsections (d) and (e), the Secretary may accept, solicit,
14 receive, hold, administer, and use gifts, devices, contribu-
15 tions, and bequests. Amounts received under this sub-
16 section shall be deposited in the Fishery Observer Fund
17 established under subsection (c).”.

18 **SEC. 10. COMPETING STATUTES.**

19 (a) REQUIRED INFORMATION IN MANAGEMENT
20 PLANS.—Section 303(a) (16 U.S.C. 1853A)) is further
21 amended by adding at the end the following:

22 “(17) contain information on the Council’s ef-
23 forts to study, develop, and describe appropriate al-
24 ternatives to recommend courses of action;”.



1 (b) REQUIRED ANALYSIS IN MANAGEMENT PLANS.—
2 Section 303(a)(9) (16 U.S.C. 1853(a)(9)) is amended by
3 striking “describe the likely effects, if any, of the conserva-
4 tion and management measures on—” and inserting “ana-
5 lyze the likely effects, if any, including the cumulative con-
6 servation, economic, and social impacts of, the conserva-
7 tion and management measures on, and possible mitiga-
8 tion measures for—”.

9 (c) COMPLIANCE WITH NATIONAL ENVIRONMENTAL
10 POLICY ACT OF 1969.—

11 (1) IN GENERAL.—Title III (16 U.S.C. 1851 et
12 seq.) is amended by adding at the end the following:

13 **“SEC. 315. COMPLIANCE WITH NATIONAL ENVIRONMENTAL**
14 **POLICY ACT OF 1969.**

15 “Any fishery management plan, amendment to such
16 a plan, or regulation implementing such a plan that is pre-
17 pared in accordance with applicable provisions of sections
18 303 and 304 of this Act may be deemed to have been pre-
19 pared in compliance with the requirements of section
20 102(2)(C) of the National Environmental Policy Act of
21 1969 (42 U.S.C. 4332(2)(C)) by the Secretary.”.

22 (2) CLERICAL AMENDMENT.—The table of con-
23 tents in the first section is amended by adding at
24 the end of the items relating to title III the fol-
25 lowing:

“Sec. 315. Compliance with National Environmental Policy Act of 1969.”.



1 (3) EFFECT ON TIME REQUIREMENTS.—Section
2 305(e) (16 U.S.C. 1855(E)) is amended by inserting
3 “the National Environmental Policy Act of 1969 (42
4 U.S.C. 4321 et seq.),” after “the Regulatory Flexi-
5 bility Act (5 U.S.C. 601 et seq.),”.

6 (d) REVIEW OF FISHERY REGULATIONS IN NA-
7 TIONAL MARINE SANCTUARIES.—Section 304 (16 U.S.C.
8 1854) is amended by adding at the end the following:

9 “(j) REVIEW OF FISHERY PROPOSED REGULATIONS
10 IN NATIONAL MARINE SANCTUARIES.—

11 “(1) The Secretary shall review any regulation
12 proposed under the National Marine Sanctuaries Act
13 (16 U.S.C. 1431 et seq.) for the conservation or
14 management of fish (whether or not such fish are
15 managed under a fishery management plan), or for
16 the conservation or management of essential fish
17 habitat identified under section 303.

18 “(2) A proposed regulation referred to in para-
19 graph (1) shall not take effect unless the Secretary
20 certifies that the proposed regulation—

21 “(A) meets the national standards under
22 section 301(a);

23 “(B) is consistent with the other provisions
24 of this Act; and



1 “(C) is consistent with any ecosystem-
2 based fishery management plan that includes
3 the provisions authorized under section
4 303(b)(14).”.

5 **SEC. 11. DIMINISHED FISHERIES.**

6 (a) SUBSTITUTION OF “DIMINISHED” FOR “OVER-
7 FISHED”.—

8 (1) SUBSTITUTION OF TERM.—The Act is
9 amended—

10 (A) by striking “overfished” each place it
11 appears (other than in subsection (a) of section
12 3 of the Act (16 U.S.C. 1802), as amended by
13 this Act) and inserting “diminished”; and

14 (B) in the heading for section 304(e) (16
15 U.S.C. 1854(e)) by striking “OVERFISHED”
16 and inserting “DIMINISHED”.

17 (2) DIMINISHED DEFINED.—Subsection (a) of
18 section 3 (16 U.S.C. 1802) is further amended—

19 (A) by inserting after paragraph (8) the
20 following:

21 “(8A) The term ‘diminished’ means, with re-
22 spect to a stock of fish, that the stock is of a size
23 that is below the natural range of fluctuation associ-
24 ated with the production of maximum sustainable
25 yield.”; and



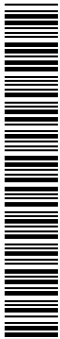
1 (B) by amending paragraph (29) to read
2 as follows:

3 “(29) The term ‘overfishing’ means a rate or
4 level of fishing mortality that jeopardizes the capac-
5 ity of a fishery to produce the maximum sustainable
6 yield on a continuing basis.”.

7 (3) DISTINGUISHING IN REPORTS.—Section
8 304(e)(1) (16 U.S.C. 1854(e)(1)) is amended by
9 adding at the end the following: “The report shall
10 distinguish between fisheries that are diminished (or
11 approaching that condition) as a result of fishing
12 and fisheries that are diminished (or approaching
13 that condition) as a result of factors other than fish-
14 ing. The report shall state, for each fishery identi-
15 fied as diminished or approaching that condition,
16 whether the fishery is the target of directed fish-
17 ing.”.

18 (b) DURATION OF MEASURES TO REBUILD DIMIN-
19 IShed FISHERIES.—Section 304(e)(4)(A)(ii) of the Mag-
20 nuson-Stevens Fishery Conservation and Management Act
21 (16 U.S.C. 1854(e)(4)(A)(ii)) is amended to read as fol-
22 lows:

23 “(ii) not exceed 10 years, except in
24 cases where—



1 “(I) the biology of the stock of
2 fish, other environmental conditions,
3 or management measures under an
4 international agreement in which the
5 United States participates dictate oth-
6 erwise;

7 “(II) the Secretary determines
8 that such 10-year period should be ex-
9 tended because the cause of the fish-
10 ery decline is outside the jurisdiction
11 of the Council or the rebuilding pro-
12 gram cannot be effective only by lim-
13 iting fishing activities;

14 “(III) the Secretary determines
15 that such 10-year period should be ex-
16 tended for one or more diminished
17 components of a multi-species fishery;
18 or

19 “(IV) the Secretary makes sub-
20 stantial changes to the rebuilding tar-
21 gets after the rebuilding plan has
22 been put in place.”.

23 **SEC. 12. NEW PROHIBITED ACTS.**

24 (a) PROHIBITION ON SALE OR PURCHASE OF REC-
25 REATIONAL CATCH.—Section 307 (16 U.S.C. 1857) is



1 amended by striking “and” after the semicolon at the end
2 of paragraph (4), by striking the period at the end of para-
3 graph (5) and inserting “; and”, and by adding at the
4 end the following:

5 “(6) to sell or purchase any fish caught in rec-
6 reational fishing.”.

7 (b) PROHIBITION ON USE OF RETIRED VESSEL.—
8 Section 307(1) (16 U.S.C. 1857(1)) is amended—

9 (1) by striking “or” after the semicolon in sub-
10 paragraph (O);

11 (2) by striking “carcass.” in subparagraph (P)
12 and inserting “carcass; or”; and

13 (3) by inserting after subparagraph (P) and be-
14 fore the last sentence the following:

15 “(R) to use any fishing vessel to engage in
16 fishing in Federal or State waters, or on the
17 high seas or the waters of another country,
18 after the Secretary has made a payment to the
19 owner of that fishing vessel under section
20 312(b)(2).”.

21 **SEC. 13. FISHERY FAILURES.**

22 Section 312(a) (16 U.S.C. 1361a) is amended by
23 striking “commercial fishery” each place it appears and
24 inserting “fishery”.



1 **SEC. 14. EMERGENCY REGULATIONS.**

2 (a) LENGTHENING OF SECOND EMERGENCY PE-
3 RIOD.—Section 305(c)(3)(B) (16 U.S.C. 1855(c)(3)(B))
4 is amended by striking “180 days,” and inserting “186
5 days,”.

6 (b) TECHNICAL AMENDMENT.—Section
7 305(c)(3)(D)) (16 U.S.C. 1855(c)(3)(D)) is amended by
8 inserting “or interim measures” after “emergency regula-
9 tions”.

10 **SEC. 15. BYCATCH AND SEABIRD INTERACTIONS.**

11 (a) GEAR GRANT PROGRAM.—Title IV (1 U.S.C.
12 1881 et seq.) is further amended by adding at the end
13 the following:

14 **“SEC. 409. GEAR GRANT PROGRAM.**

15 “(a) IDENTIFICATION OF FISHERIES WITH MOST
16 URGENT PROBLEMS.—The Secretary shall—

17 “(1) identify those fisheries included in a list
18 under subsection (a) that have the most urgent by-
19 catch problems or seabird interaction problems,
20 based on comments received regarding the list; and

21 “(2) work in conjunction with the Councils and
22 fishing industry participants to develop new fishing
23 gear, or modifications to existing fishing gear, that
24 will help minimize bycatch and seabird interactions
25 to the extent practicable.



1 “(b) GRANT AUTHORITY.—The Secretary shall, sub-
2 ject to the availability of appropriations, make grants for
3 the development of fishing gear and modifications to exist-
4 ing fishing gear that will help—

5 “(1) minimize bycatch and seabird interactions;
6 and

7 “(2) minimize adverse fishing gear impacts on
8 habitat areas of particular concern.

9 “(c) REPORT.—The Secretary shall report to the
10 Congress annually on—

11 “(1) the amount expended to implement this
12 section in the preceding year;

13 “(2) developments in gear technology achieved
14 under this section;

15 “(3) the reductions in bycatch associated with
16 implementation of this section; and

17 “(4) any other relevant information.

18 “(d) AUTHORIZATION OF APPROPRIATIONS.—To
19 carry out this section there is authorized to be appro-
20 priated to the Secretary \$10,000,000 for each of fiscal
21 years 2007 through 2011.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 in the first section is amended by adding at the end of
24 the items relating to title IV the following:

“Sec. 409. Bycatch identification and gear grant program”.



1 (c) REPORT.—The Secretary of Commerce shall re-
2 port to the Congress within one year after the date of the
3 enactment of this Act on—

4 (1) the extent of the problem of seabird inter-
5 action with fisheries of the United States;

6 (2) efforts by the fishing industry and Regional
7 Fishery Management Councils to address that prob-
8 lem; and

9 (3) the extent of the problem of seabird inter-
10 action with fisheries other than the fisheries of the
11 United States.

12 (d) INTERNATIONAL ACTION.—The Secretary of
13 Commerce shall take appropriate action at appropriate
14 international fisheries management bodies to reduce
15 seabird interactions in fisheries.

16 **SEC. 16. OVER CAPITALIZATION.**

17 (a) DISCRETION OF SECRETARY TO CONDUCT FISH-
18 ING CAPACITY REDUCTION PROGRAM.—Section 312(b)
19 (16 U.S.C. 1861a(b)) is amended—

20 (1) in paragraph (1) by striking “, at the re-
21 quest of the appropriate Council for fisheries under
22 the authority of such Council, or the Governor of a
23 State for fisheries under State authority,”;



1 (2) in paragraph (1), by inserting “that is man-
2 aged under a limited access system authorized by
3 section 303(b)(6),” after “in a fishery”; and

4 (3) by redesignating paragraph (4) as para-
5 graph (5), and by inserting after paragraph (3) the
6 following:

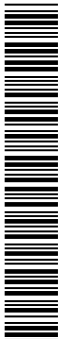
7 “(4) The Council, or the Governor of a State, having
8 authority over a fishery may request the Secretary to con-
9 duct a fishing capacity reduction program in the fishery
10 under this subsection.”.

11 (b) REQUIREMENT TO SURRENDER ALL PERMITS.—
12 Section 312(b)(2) (16 U.S.C. 1861a(b)(2)) is amended to
13 read as follows:

14 “(2)(A) The objective of the program shall be to ob-
15 tain the maximum sustained reduction in fishing capacity
16 at the least cost and in a minimum period of time.

17 “(B) To achieve that objective, the Secretary is
18 authorized to pay an amount to the owner of a fish-
19 ing vessel, if—

20 “(i) such vessel is scrapped, or through the
21 Secretary of the department in which the Coast
22 Guard is operating, subjected to title restric-
23 tions that permanently prohibit and effectively
24 prevent its use in fishing;



1 “(ii) all permits authorizing the participa-
2 tion of the vessel in any fishery under the juris-
3 diction of the United States are surrendered for
4 permanent revocation; and

5 “(iii) the owner of the vessel and such per-
6 mits relinquishes any claim associated with the
7 vessel and such permits that could qualify such
8 owner for any present or future limited access
9 system permit in the fishery for which the pro-
10 gram is established.”.

11 (c) ENSURING VESSELS DO NOT ENTER FOREIGN OR
12 HIGH SEAS FISHERIES.—Section 312(b) (16 U.S.C.
13 1861a(b)) is further amended by adding at the end the
14 following:

15 “(6) The Secretary may not make a payment under
16 paragraph (2) with respect to a vessel that will not be
17 scrapped, unless the Secretary certifies that the vessel will
18 not be used for any fishing, including fishing in the waters
19 of a foreign nation and fishing on the high seas.”.

20 (d) REPORT.—

21 (1) IN GENERAL.—The Secretary shall, within
22 12 months after the date of the enactment of this
23 Act, submit to the Congress a report—

24 (A) identifying and describing the 20 fish-
25 eries in United States waters with the most se-



1 vere examples of excess harvesting capacity in
2 the fisheries, based on value of each fishery and
3 the amount of excess harvesting capacity as de-
4 termined by the Secretary;

5 (B) recommending measures for reducing
6 such excess harvesting capacity, including the
7 retirement of any latent fishing permits that
8 could contribute to further excess harvesting ca-
9 pacity in those fisheries; and

10 (C) potential sources of funding for such
11 measures.

12 (2) BASIS FOR RECOMMENDATIONS.—The Sec-
13 retary shall base the recommendations made with re-
14 spect to a fishery on—

15 (A) the most cost effective means of
16 achieving voluntary reduction in capacity for
17 the fishery using the potential for industry fi-
18 nancing; and

19 (B) including measures to prevent the ca-
20 pacity that is being removed from the fishery
21 from moving to other fisheries in the United
22 States, in the waters of a foreign nation, or in
23 the high seas.



1 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) AUTHORIZATION.—Section 4 (16 U.S.C. 1803) is
3 amended by striking paragraphs (1) through (4) and in-
4 serting the following:

5 “(1) \$338,970,000 for fiscal year 2007.

6 “(2) \$366,087,000 for fiscal year 2008.

7 “(3) \$395,374,000 for fiscal year 2009.

8 “(4) \$427,604,000 for fiscal year 2010.

9 “(5) \$461,812,000 for fiscal year 2011.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 in the first section is amended by inserting after the item
12 relating to section 3 the following:

“Sec. 4. Authorization of appropriations.”.

